

BARBARA HOFFMAN (BH 8931)
The Hoffman Law Firm
330 West 72nd Street
New York, New York 10023
(212) 873-6200 (phone)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BARBARA BROUGHEL

Plaintiff,

v.

THE BATTERY CONSERVANCY, WARRIE
PRICE, CLAIRE WEISZ AND MARK YOES,
“DBA” WEISZ + YOES

Defendants.

No. 07 Civ. 7755 (GBD)

ECF Case

**DECLARATION OF BARBARA BROUGHEL IN SUPPORT OF
PLAINTIFF'S REPLY MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFF'S CROSS-MOTION FOR A PRELIMINARY INJUNCTION**

I, Barbara Broughel hereby declare, pursuant to the penalties of perjury under 28 U.S.C. 1746 that the following statements are true and correct.

1. I submit this Declaration to put before the Court additional images which illustrate both copyrighted artwork which was provided to the Battery Conservancy. Attached as Exhibit A are photographs of (i) a Sea Glass Chandelier prototype which was successfully completed by me, and (ii) a colored model of the Lighted Trigger Fish which has been registered as part of the Sea Glass Group and has previously been submitted in black and white.

2. One of the attributes of my proposal and the reasons why I was selected was that I provided an holistic approach to the design of the interior of the Carousel while the original concept of Weisz + Yoes was limited to a design for the figures. I envisioned an entire ride experience that involved producing an integration of light, sound, movement – an underwater experience. One of the key themes presented to the Battery Conservancy were my studies going from light to dark with rider. These studies are attached as Exhibit B.

3. Attached as Exhibit C is a YouTube Sea Glass Carousel video fly-through projection which I downloaded on May 6, 2008 from the Battery Conservancy website. The YouTube clearly shows the appropriation of my registered Sea Glass designs, including the 1/12 scale model plus other elements identified on Broughel Design Elements appearing in Sea Glass Carousel video fly-through, copies of which are attached as Exhibit D.

4. Attached as Exhibit E is a resolution of Community Board #1 referred to in the Declaration of Patricia Kirshner submitted in Defendant's Answer to the Motion for a Preliminary Injunction. Noticeably absent from her Declaration and resolution are any images or description of Mr. George Tsypin's work for the Carousel.

5. Attached as Exhibit F is an image of Mr. Tsypin's work from a project called "Building in the Black Void." I do not claim that Mr. Tsypin infringed my copyright through his imagery of the "Building in the Black Void." My claim is that the Battery Conservancy, once presented with my novel and original ideas for the Battery Carousel, and to excuse and hide their inefficient management of the fabrication process, terminated me as a scapegoat and then sought out somebody who could do work similar in feel and concept to the interior design which I put forward in my proposal and the related sketches and illustrations.

6. This case is painfully embarrassing to me, and if the public becomes aware that I have been terminated, the first-class reputation and professional credibility I have worked so hard to establish over so many years will be severely damaged. I have no traditional monetary remedy, since no amount of money can fully compensate me for this injury. Indeed its subtle effects can never be fully known. If the Defendants are prevented from continuing with the Sea Glass Carousel and particularly seeking further approvals until this case is resolved, the bright spot of publicity will not shine o my removal. The press to date has not learned of my removal, in part because of Defendants' copyright infringement.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 8, 2008
in Westport, Connecticut



BARBARA BROUGHEL